

REMARKS

Claims 1-16 are pending in this present Application. Though Applicant has not amended the claims, the above claim listing is respectfully provided for the Examiner's convenience. Applicant also respectfully thanks the Examiner for finding the Remarks filed with Applicant's Response of July 15, 2008 to be persuasive. The Examiner's rejections will now be respectfully addressed in turn.

Claim Rejections Under 35 U.S.C. §103

Claims 16-28 are rejected as being anticipated by, under 35 U.S.C. 102(b), or obvious over, under 35 U.S.C. 103(a), United States Patent No. 4,109,825 to Weitzman. Applicant respectfully traverses this rejection.

Applicant notes that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 16 recites, *inter alia*,

"said **magazine discharge arrangement** comprising at least one confectionery article fitting compartment **adapted for performing a movement relative to said**

magazine outlets upon activation of an activation arrangement and thereby **transferring at least one confectionery article comprised in at least one confectionery article magazine to at least one output compartment**; and

said at least one output compartment being adapted for performing a rotating movement upon activation of said activation arrangement.”

Weitzman does not teach movement of any compartment in the discharge arrangement **relative to the magazine outlets** that results in transfer to an output component that is **rotatable**. Instead, the only component taught in Weitzman to be moveable **relative to** the magazine outlets 74, 84 is the carrying plate 42 (with openings 54), wherein this plate 42 moves to transfer to a chute 56, 58 that is clearly **stationary** (please see Figures 2 and 3). Thus, as this chute 56, 58 is clearly not rotatable, and as the only other moving Weitzman part that contains/transfers the confection are the magazine outlets 74, 84 themselves (which are clearly not moveable **relative to** the magazine outlets 74, 84 (i.e. they cannot be moveable relative to themselves)), the alleged actuating arrangement and output components of Weitzman are not taught as recited in Applicant’s claims.

For at least the above reasons, Applicant respectfully submits Weitzman does not teach every element of Applicant’s claim 1, or claims 2-16 that depend therefrom. For at least this reason, Weitzman neither anticipates Applicant’s claims, nor render Applicant’s claims to be obvious.

In addition, as further evidence of non-obviousness, the rotating output component as recited in Applicant’s claims provides an advantage over the stationary chute 56, 58 of Weitzman in that the rotation allows for more effective tampering prevention.

Conclusion

All of the objections and rejections are herein overcome. In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. No new matter is added by way of the present Amendments and Remarks, as support is found throughout the original filed specification, claims and drawings. Prompt issuance of Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicant's attorney at the below listed phone number regarding this response or otherwise concerning the present application.

Applicant hereby petitions for any extension of time necessary under 37 C.F.R. 1.136(a) or 1.136(b) for entry and consideration of the present Reply.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

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